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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,073	08/01/2003	Edward R. Harrison	P16631	4234

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EXAMINER

ISSING, GREGORY C

ART UNIT PAPER NUMBER

3662

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/633,073

**Applicant(s)**

HARRISON, EDWARD R.

**Examiner**

Gregory C. Issing

**Art Unit**

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-17 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-17 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 9-17 and 32-34 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Lelievre et al.

The rejection is set forth in the previous Office Action.

Applicant argues that the database of Lelievre et al is populated with data already known and available and thus the services and location information stored in the storage device as they are discovered are not shown in Lelievre et al. This argument is not convincing. In par. [0048], Lelievre et al clearly teach receiving updated tuning information based on position as well as the storage of the information in a memory in the location aware radio that may be repeatedly accessed. In view of the fact that the tuning pre-sets may be accessed repeatedly, based on location at a subsequent time [0050] and the information with respect to the tuning information is location based, it is clear that the services, i.e. the tuning information, are received and stored based on position. There is no distinction between the claimed discovering services and the reception of tuning information from the location based service provider and there is no distinction between associating the service with location information and the reception of location based services. Lastly, there is no distinction between the claimed storing the service and location in a storage device and the reception and storing of the location based tuning information in a memory on the location aware radio that may be repeatedly accessed.

3. Claims 9-17 and 32-34 are rejected under 35 U.S.C. 102(a) as being anticipated by Slupe.

4. The rejection is set forth in the previous Office Action.

5. Applicant argues that Slupe does not teach the memory or database being stored with data as they are discovered at each location. This is not convincing. Slupe discloses the radio receiver programming into memory the plurality of station identities and program content specifiers as they are received by the radio receiver. Moreover, the memory has location coordinates associated with

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the radio identifier [0011]. Additionally, as set forth in the claims of Slupe, claim 1 defines a memory storing an organization of the radio station identifiers, wherein claim 5 defines that the memory is programmed with data received by a radio receiver, and claim 7 defines that the memory associates location coordinates with each radio identifier, such that radio identifiers may be recalled on the basis of location as set forth in claim 10. Since the radio identifiers and content specifiers are receivable of the radio receiver, associated with location coordinates, stored in the radio receiver, and later accessible on the basis of stored and instant location coordinates, the claimed subject matter is deemed to be disclosed.

6. Claims 9-17 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Morita et al.

The rejection is set forth in the previous Office Action.

Applicant argues that Morita does not teach the database being stored with data as they are discovered at a certain location. This argument is not convincing. Morita et al teach retrieving information about a radio station including its identification and program time and content at a particular time and furthermore includes a GPS receiver for determining position. The retrieved information is location-based, i.e. it is applicable based on the position of the mobile device. Morita et al also teach storing the location-based information in order to later recall the station information at the time a specified program is to be aired where the mobile is currently running (Figure 2 and its description).

7. The rejection over Dutta et al is overcome since Dutta et al fail to disclose storing the associated services, i.e. legal matter, in the client device along with position information. The rejection over Lyons is overcome since the radio does not associate and store information about a discovered service and its location information in a storage device as they are discovered.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is 703-306-4156. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 703-306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory C. Issing  
Primary Examiner  
Art Unit 3662

gci